

OFFICE OF STRATEGIC SERVICES

WASHINGTON 25, D. C.

OGC Has Reviewed

22 May 1945

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Decisions*

MEMORANDUM

TO: Files

STATINTL

FROM:

STATINTL

SUBJECT: Lump-sum Payments under Public Law 525

1. Several questions have recently been presented concerning the application of Public Law 525, approved 21 December 1944.

- a. Under what conditions may accrued annual leave of a Federal employee be transferred to his credit when he is transferred to OSS and compensated from Special Funds?
- b. Where a person has received a lump-sum payment under Public Law 525 and is immediately placed on the Special Funds payroll of OSS, will any refund of the lump-sum payment be required?

2. Section 1 of the subject Act provides in part that whenever a civilian employee of the Federal Government is separated from the service he shall be paid compensation in a lump sum for all accumulated and current accrued annual leave. Such lump-sum payment shall equal the compensation that such employee would have received had he remained in the service until the expiration of the period of such annual leave. However, if such employee is reemployed in the Federal service under the same leave system prior to the expiration of the period covered by such leave payment, he shall refund to the employing agency an amount equal to the compensation covering the period between the date of reemployment and the expiration of such leave period, and the amount of leave represented by such refund shall be credited to him in the employing agency. It is provided that such lump-sum payment shall not be regarded, except for purposes of taxation, as salary or compensation.

3. Section 3 of the subject Act provides in part that all accumulated and current accrued leave be liquidated by a lump-sum payment to any civilian employee of the Federal Government in cases involving transfer to agencies under different leave systems. Such lump-sum payment shall equal the compensation that such employee would have received had he not been transferred until the expiration of the period of such leave. It is provided that such lump-sum payments shall not be regarded, except for purposes of taxation, as salary or compensation.

4. It is understood that it is the policy of Special Funds Branch where possible to credit and accrue leave in the same manner as required under Civil Service laws and regulations. Therefore, it would appear that a regular Civil Service employee, or an employee of a government establishment having a substantially similar leave system, may properly have his accumulated leave transferred to his credit with OSS even though he is to be compensated from Special Funds. Where security considerations are such that a transfer of accrued leave should be made, it appears that the employee would be entitled to receive a lump-sum payment for his accrued leave at the former employment agency.

5. Where a person has received a lump-sum payment under Public Law 525 and is immediately placed on the special funds payroll of OSS, no refund will be required if the leave systems of the two agencies concerned are different. The usual compensation statutes are not involved since such lump-sum payments are not to be regarded as salary or compensation except for purposes of taxation. Comptroller General's decision B-46726, 13 January 1945. If the leave systems are substantially similar it would seem that a refund should be made of the lump-sum payment and credit for leave therefor should be granted in accordance with the provisions of Public Law 525.